

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Eugene Laron Johnson,

Civ. No. 22-1915 (WMW/BRT)

Plaintiff,

v.

**REPORT AND
RECOMMENDATION**

MCF-Moose Lake; Officer Mendez; and
Andy Turnboom, Support Services
Supervisor,

Defendants.

BECKY R. THORSON, United States Magistrate Judge.

In an order dated September 7, 2022, this Court ordered Plaintiff Eugene Laron Johnson to pay an initial partial filing fee of \$15.80 to initiate this action. (*See* Doc. No. 10.) Johnson was given until September 27, 2022, to pay the initial partial filing fee, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b).

That deadline has now passed, and Johnson has not paid the initial partial filing fee. Accordingly, this Court now recommends, in accordance with its prior order, that this action be **DISMISSED WITHOUT PREJUDICE** under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App'x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”). Considering this recommendation, this Court

further recommends that Johnson's corresponding motions, including: (1) Motion to Seize Surveillance Video, (Doc. No. 2); (2) Motion for Three USM-285 Forms, (Doc. No. 7); (3) Motion to Appoint Counsel, (Doc. No. 6); and (4) Motion for USM-285 Forms and Plaintiff's Mental Health Records, (Doc. No. 9), be **DENIED** as moot.

RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein,
IT IS HEREBY RECOMMENDED THAT:

1. This action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute;
2. The application to proceed *in forma pauperis* of plaintiff Eugene Laron Johnson (Doc. No. 5) be **DENIED**; and
3. The following motions be **DENIED** as **MOOT**: (1) Motion to Seize Surveillance Video, (Doc. No. 2); (2) Motion for Three USM-285 Forms, (Doc. No. 7); (3) Motion to Appoint Counsel, (Doc. No. 6); and (4) Motion for USM-285 Forms and Plaintiff's Mental Health Records, (Doc. No. 9).

Dated: October 12, 2022

s/ Becky R. Thorson
BECKY R. THORSON
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).